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SIPDIS

STATE FOR EAP/MLS AND EB/CIP  
STATE PASS USTR DAVID BISBEE  
COMMERCE FOR 4431/MAC/AP/OPB/VLC/HPPHO

SENSITIVE BUT UNCLASSIFIED

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SUBJECT: MPT REACTS TO INDUSTRY LETTERS ON DECISION 169

REF: HANOI 2770

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¶1. (SBU) Summary. Ministry of Posts and Telematics (MPT) official acknowledged information technology (IT) industry concerns over two Decisions which give domestic preference for government IT procurements. On the positive side, he said the Vietnamese government will soon begin work on a circular which clearly excludes state-owned enterprises and state trading enterprises (SOEs/STEs) from the scope of this policy. He was less forthcoming, however, regarding the issues of open-source and domestic preference, and willing only to consult on these issues. He noted that the government has the right and flexibility to determine its own procurement policies for government agencies. The official stopped short of agreeing to the IT industry's request to create a technical working group but showed a willingness to consult with interested parties via open workshops and seminars throughout the drafting process. End summary.

Upcoming Revisions

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¶2. (SBU) On October 31, MPT International Cooperation Department Deputy Director General Dr. Phan Tam discussed with Econoff the October 25 letters from the Emergency Committee for American Trade (ECAT) and a group of U.S. Information Technology (IT) business associations (reftel). Tam claimed to have only "briefly reviewed" the letters, but was clearly aware of the concerns raised over IT procurement provisions contained in Decision 169/2006/QD-TTg of July 17, 2006 and Decision 223/2006/QD-TTg of October 4, 2006 from earlier discussions and e-mail exchanges with industry representatives and the USG.

¶3. (SBU) Tam said that the MPT, working together with the Ministries of Trade (MOT) and Science and Technology (MOST), will soon begin drafting a circular which will make the government IT procurement policy compliant with Vietnam's WTO commitments. He said the circular will clearly state that SOEs/STEs are excluded from the scope of Decision 169. Dr. Tam acknowledged the additional concerns cited in ECAT's letters, e.g., open-source and domestic preference, and expressed a willingness to consult on these issues. He was careful to emphasize, however, that the Government of Vietnam (GVN) has the right and flexibility to determine its own procurement policies for government agencies. (Note: Vietnam will not participate in the optional Agreement on Government Procurement as part of its WTO accession.)

Consultations with the IT Industry

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¶4. (SBU) Regarding the IT industry proposal to create a technical working group raised in the October 25 letters, Dr. Tam committed to

discuss the idea with the other relevant ministries. The GVN is interested in consultations in an "official manner," Dr. Tam said. He noted that after the drafting committee is established, it will invite all interested parties to comment and provide feedback through open workshops or seminars. Tam stated that these workshops will "meet the industry's request" for a forum enabling representatives from the IT industry to meet with relevant GVN officials to exchange points of view on draft language for the circular.

¶15. (SBU) According to Dr. Tam, MPT will lead the implementing circular drafting committee. Due to other demands, he expects that the committee will not convene to begin work on the circular to clarify the language in the Decisions until "sometime between November 15-20." In the meantime, Dr. Tam asked for concrete proposals of requested language changes. He also requested sample provisions from other countries' IT procurement policies, saying that his counterparts respond well to this "best practices" approach. Post is working with USTR to respond to Tam's requests.

Comment

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¶16. (SBU) Vietnam agreed to join the Technology Choice Pathfinder initiative at the APEC SOM III meeting in Danang this past September. This initiative promotes "the principles of technology choice in a market-opening, trade-liberalizing manner that spurs the cycle of innovation and opportunity and promotes economic development across the region." Decision 169 flies in the face of this approach. Members of the IT industry are furious. They view the discriminatory elements of this procurement policy as bad faith, even if it does not violate WTO obligations. Having the drafting committee hold open workshops to allow industry input is welcome news, but falls short of addressing the other industry concerns.

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Post will continue to work with the U.S. IT industry to promote a more open procurement policy consistent with the APEC initiative.

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